

**PRACTICES AND PROCEDURES OF
JUDGE MAURICE B. COHILL, JR.**

I. GENERAL MATTERS

A. Communications with the Court

Judge Cohill has a strong preference for communications to be in the form of a motion so that they can be docketed.

B. Communications with Law Clerks

Judge Cohill permits communications with his law clerks concerning the administration but not the merits of any case. Counsel may inquire of the clerks as to the status of pending motions.

C. Telephone Conferences

Judge Cohill has a strong preference for personal contacts with counsel. He will accommodate out-of-town counsel with phone conferences, but if all counsel are in town, conferences should be in person. When Judge Cohill is sitting in Erie, he will permit conferences on Pittsburgh matters to be held by phone.

D. Pro Hac Vice Admissions

Judge Cohill wants pro hac vice admissions to be by motion. The motion need not be made in writing.

E. Comment to the Media

Judge Cohill has never issued a gag order. He has had conferences to caution counsel about trying their cases in the media.

II. MOTIONS PRACTICE

A. Oral Argument

Judge Cohill has no set practice as to the types of motions on which he holds oral arguments. He does not distinguish between merits versus discovery motions. His distinctions are based on the complexity of the issues. He has limited argument. Judge Cohill does not have a "happy hour" or any particular set time for hearing arguments on motions.

B. Briefs

Judge Cohill expects briefs with respect to all motions except discovery motions, motions for extensions of time, and motions for continuance. The briefs must contain all information relevant to disposition of the pending motion; incorporating previously filed motions or briefs is prohibited. He will permit reply and surreply briefing, but he asks that counsel provide notice to his chambers that additional briefing is going to be provided. He does not have any page limits established for briefs.

C. **Chambers Copies of Motion Papers**

Judge Cohill generally prefers not to receive courtesy copies of motions and briefs available through the CM/ECF system. However, counsel should provide courtesy copies of any voluminous briefs, appendices, and/or exhibits.

D. **Scheduling**

Generally, a party will have 21 days to file a response to a dispositive motion and 14 days to respond to a non-dispositive motion, unless otherwise ordered by the Court.

E. **Magistrate Judge's Report and Recommendation**

Judge Cohill reviews the briefs, objections to the Report and Recommendation, and gives the case de novo review.

F. **Pretrial Motions Requiring Evidentiary Hearings**

Judge Cohill has no set practice with respect to scheduling evidentiary hearings in civil matters. In criminal cases, he usually holds evidentiary hearings in advance of trial.

G. **In Limine Motions**

Judge Cohill usually does not rule on motions in limine until the issue comes up at trial, but prefers that such motions be filed prior to trial. The Court requires that all motions in limine must be accompanied by a certificate of conferral as set forth in Local Rule 16.1.C.4.

III. CIVIL CASES

A. **Pretrial Procedures**

1. **Local Rule 16.1**

Judge Cohill issues a standard Case Management Order, which follows Rule 16.1. The Court requires that all motions to modify any scheduling order must be accompanied by a certificate of conferral as set forth in Local Rule 16.1.B.5.

2. **Pretrial Conferences**

Judge Cohill does not have a general practice of scheduling conferences other than the initial Local Rule 16.1.1 Case Management Conference, which is scheduled within 40 days of the filing of a responsive pleading. Additional conferences are scheduled at the Court's discretion if an issue arises or a request for a conference is made by counsel.

3. **Settlement**

Judge Cohill requires that counsel have their client present or have authority to settle or have the client available by phone to participate in settlement discussions. He prefers that the parties be present for settlement discussions. Judge Cohill often talks to parties and their counsel, ex parte, if the parties agree to that format.

Judge Cohill will discuss settlement in a non-jury case, but he will not discuss unliquidated damages. If for any reason he is uncomfortable with participating in the settlement discussions, he will refer the matter to another Judge.

4. **Extensions and Continuances**

Judge Cohill has no special rules governing extensions and continuances. Occasionally he places restrictions on further extension when the case is not moving. He wants motions to be filed seeking such extensions or continuances. He is much less liberal with respect to extending dates for court appearances than for extending other dates.

B. **Discovery Matters**

1. **Length of Discovery Period and Extensions**

Judge Cohill has no set policy governing the length of time permitted for discovery. He will set limits if he believes there is potential for abuse. He will grant extensions if there is no abuse.

2. **Expert Witnesses**

Judge Cohill permits discovery depositions of expert witnesses under certain circumstances.

3. **Deposition Disputes**

Judge Cohill does not like to resolve discovery disputes that arise during a deposition by telephone call during the deposition. He prefers resolution by motion after the deposition.

4. **Stay of Discovery**

The filing of a dispositive motion does not automatically stay discovery. Judge Cohill will usually stay discovery during the pendency of a motion to dismiss, if requested to do so.

5. **Limitations on Discovery**

No standard form restrictions on the number of interrogatories or length of depositions are employed by Judge Cohill beyond those set forth in the Federal Rules of Civil Procedure and any pertinent Local Rules.

6. **Certificate of Conferral**

The Court requires that all discovery motions must be accompanied by a certificate of conferral as set forth in Federal Rule of Civil Procedure 37(a)(1). Counsel shall meet and confer in an effort to resolve their disputes prior to filing such motions.

7. **Rule 11 Motions - Rule 37 Sanctions**

Ordinarily, Judge Cohill will not rule immediately on such a motion. He will tell people if he wants briefs. If there is a claim of frivolous pleading, he will expect briefing. He will award attorneys' fees in some circumstances.

C. **Injunctions and TRO's**

Judge Cohill handles requests for injunctions or TROs very expeditiously. He will contact counsel and try to set a schedule. He will permit expedited discovery.

D. **Trial Procedures**

1. **Scheduling of Cases**

Every effort is made to give counsel sufficient advance notice as to when their case will be called for trial.

2. **Trial Hours/Days**

Jury trials are generally conducted Monday through Thursday, 9:30 a.m. to 4:45 p.m., with a break in the morning and a break in the afternoon. Counsel must be available prior to the start of the trial day and at the conclusion of the trial day as necessary to meet with the Court concerning scheduling, evidentiary issues, and other trial matters.

3. **Trial Briefs**

Judge Cohill rarely requires trial briefs. He does permit them. He prefers them before trial in a complex case. He has no filing date or page limit restrictions on such briefs.

4. **Voir Dire**
Judge Cohill conducts voir dire. He does not permit counsel to address any questions to the panel as a whole. Particular jurors who are questioned at side bar may be asked questions by counsel. Unless otherwise ordered by the Court, proposed voir dire are to be submitted at least one week prior to jury selection.
5. **Notetaking by Jurors**
Judge Cohill normally permits notetaking by jurors.
6. **Side Bars**
Judge Cohill does permit side bar conferences. He wants only one lawyer from one side to be spokesperson. He permits requests for side bars, but he does not always grant the requests.
7. **Examination of Witnesses Out of Sequence**
Judge Cohill will try to accommodate scheduling conflicts, and he does permit going out of sequence with witnesses.
8. **Opening Statements and Summations**
Judge Cohill does not place any limitations on the amount of time allowed for opening statements or summations. He sometimes cautions counsel that opening statements are not argument.
9. **Examination of Witnesses or Argument by More Than One Attorney**
Separate lawyers may question separate witnesses. Only one lawyer for one party may question each witness. Each party has the right to have separate counsel question the witness.
10. **Examination of Witnesses Beyond Direct and Cross**
Judge Cohill permits redirect and recross and questioning until everyone is finished.
11. **Videotaped Testimony**
Judge Cohill does not have any special procedures or requirements with respect to the use or admission of videotaped testimony.
12. **Reading of Material into the Record**
Judge Cohill has no particular requirement as to reading depositions or other matters into the record. He permits putting evidence in at the time that it is logical in the progression of the trial. In a non-jury case, he permits placing evidence into the record without reading it.

13. **Exhibits**

Judge Cohill has no special rules concerning the marking, exchange or submission of exhibits or demonstrative evidence. In a complex case, he does want major exhibits marked and placed in two notebooks, one for the Court, one for the Clerk. He also wants to be provided with a list of all exhibits.

Judge Cohill does not have any special rules about the use of visual aids during opening statements. He does permit their use during opening statements.

He prefers that an exhibit be offered after identification of the exhibit, but before there is any testimony about it.

14. **Directed Verdict Motions**

Judge Cohill does not have any standard requirements for directed verdict motions or motions to dismiss in non-jury trial. He expects the motion to be made at the end of the plaintiff's case. Most motions are denied before there is any response from plaintiff's counsel.

15. **Jury Instructions and Verdict Forms**

Judge Cohill relies on the Third Circuit's Standard Jury Instructions as well as other sources. It is his practice to provide to the lawyers a copy of what he uses as the standard instructions.

Counsel may file proposed jury instructions and verdict forms as directed by the Court. If there are special interrogatories, Judge Cohill wants proposals from counsel. The Judge's practice is to hold a Charge Conference prior to the close of evidence, and typically it occurs the day before he charges the jury.

16. **Proposed Findings of Fact and Conclusions of Law**

Judge Cohill requires submissions of proposed Findings of Fact and Conclusions of Law. It is usually after trial. The Court provides time for counsel to prepare them.

17. **Offers of Proof**

Judge Cohill does not impose any restrictions upon requests for offers of proof during trial. They are usually done at side bar.

18. **General Courtroom Rules**

Judge Cohill has no special courtroom rules regarding the conduct of attorneys at trial. He thinks that counsel are most effective standing at the end of the jury box, but counsel may choose to sit.

E. Jury Deliberations

1. Written Jury Instructions

Judge Cohill usually provides the jury with a copy of his instructions.

2. Exhibits in the Jury Room

Judge Cohill provides exhibits to the jury except for depositions, drugs and money.

3. Jury Requests to Read Back Testimony or Replay Tapes during Deliberations

Judge Cohill normally denies requests to read back testimony or replay tapes during deliberations

4. Jury Questions

All jury questions are submitted in writing to the Court. The Court will answer the question, either in open court or in writing, after consultation with counsel.

5. Availability of Counsel During Jury Deliberations

Counsel are not required to remain in the courtroom during jury deliberations but they must be available by telephone so that they can promptly return to the Courthouse upon being contacted by the Court.

6. Interviewing the Jury

Judge Cohill does not have any special rules regarding interviewing jurors post-verdict. He always talks to the jurors himself. In high profile cases, he cautions the jury about talking to anyone.

F. General

Judge Cohill requires a standard RICO case statement. Most social security cases are decided on the basis of the record and briefs. He does not have any other individualized practices and procedures which he expects for lawyers practicing before him

IV. CRIMINAL CASES

A. Motions

Judge Cohill routinely grants motions for extensions of time to file pretrial motions where there is significant discovery material to be reviewed, recognizing that to do so is in the "interest of justice." When counsel requests an extension, they should specify the reasons for granting the extension and state opposing counsel's position on the motion. Proposed Orders must expressly track the language of the Speedy Trial Act.

B. Pretrial Conferences

Judge Cohill's usual practice is to schedule a pretrial conference immediately before trial.

C. Guilty Pleas

Judge Cohill does not have any special rules regarding guilty pleas. He does not have any deadline or requirement for accepting or rejecting plea bargains. He uses a form colloquy for the entry of guilty pleas, which is available for review.

D. Trial

1. Judge Cohill adheres to the Trial Procedures set forth in section III.D. above as applicable to Criminal trials, with the following additions.
2. He permits one defense attorney for each defendant to question one witness when there are multi-defendant cases. He may cut off duplicative questioning.
3. If counsel requests sequestration of the witnesses, he will grant the request.
4. Judge Cohill permits the use of transcripts in cases where the government introduces tape-recorded conversations. He gives cautionary instruction to the jury that they should be guided by what they hear, not by what is transcribed.
5. Judge Cohill permits defense counsel to determine when to present his or her opening statement, i.e., whether to open immediately after the government's opening or in the defense case-in-chief.
6. Judge Cohill encourages the government to turn over Jencks Act material as early as possible in order to avoid delays during trial. Under the Act, 18 U.S.C. Section 3500(a), there is no requirement that material be given until after direct examination is completed so that the Court cannot compel the material until after direct testimony is completed, but Judge Cohill prefers the government to make this material available at least the day before the witness is to testify.
7. All Brady material within the possession or control of the government or its agents should be disclosed well in advance of trial, and the government is under a continuous obligation to disclose such material to the defense,
8. Special interrogatories to the jury will be submitted upon request of counsel in appropriate cases.

E. Sentencing Memoranda

Judge Cohill expects counsel to adhere to the procedural and timing requirements of Local Criminal Rule 32.

F. Sentencing Conference

Judge Cohill does not hold a sentencing conference. He will entertain requests for a conference prior to sentencing in appropriate cases.

G. Other General Practices and Procedures

1. Judge Cohill will make appropriate recommendations to the Bureau of Prisons regarding the federal institution that a defendant is to be sent to, if requested to do so by defense counsel.
2. Because a defendant's bond usually prohibits travel outside of the Western District, Judge Cohill expects that a formal motion for leave to travel be filed even if defense counsel and the United States attorney agree to the travel request. The motion should also indicate the position of Pretrial Services or the Probation Office on the request to travel.
3. Judge Cohill has no general policy on how to resolve conflicts between defense counsel and the defendant. Any conflicts between counsel and his or her client should be brought to the Court's attention on the record. If necessary, the Court will conduct a hearing on said matter.

V. BANKRUPTCY CASES

N/A.

VI. BANKRUPTCY APPEALS (TO THE DISTRICT COURT)

A. Filing/Scheduling

Judge Cohill does not have any particular requirements regarding the filing or scheduling of bankruptcy appeals.

B. Oral Argument

Generally, the appeal is disposed of on the briefs but oral argument may be granted on a case-by-case basis.

C. Other General Practices/Procedures

Judge Cohill has no general policy or practice regarding requests to modify the briefing schedule or other requirements set forth in the Federal Rules of Bankruptcy Procedure.